IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

W.A.No.971 of 2007

AGAINST THE ORDER IN W.P.(C).NO.33190/2006 DATED 02/02/2007

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APPELLANTS: RESPONDENTS 13 AND 22:-

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1. K.T.KURUVILA SON,
   C & A, VHB LIFE SCIENCES INC, 35/319D1,
   KURUVILA TOWERS, PEREPARAMBU ROAD,
   MAMANGALAM, PALARIVATTOM, KOCHI-25,
   REP. BY AUTHORISED SIGNATORY, JOSSY RAJU, KURUVILA.

2. K.N.MATHEW SONS,
   C.A.KHANDELWAL LABS PVT. LTD., P.O.BOX 1935,
   REP. BY PARTNER KOSHY P.TITUS.

BY ADV. SRI.P.VIJAYA BHANU
SRI.M.GEORGE THOMAS

RESPONDENTS:
PETITIONERS & RESPONDENTS 1 TO 12, 14 TO 21 AND 23 TO 26:-

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1. M/S. GEO PAUL & COMPANY,
   PHARMACEUTICAL DISTRIBUTORS, FLOWER JUNCTION,
   T.D.ROAD, ERNAKULAM, COCHIN-682 305, REP. BY
   ITS MANAGING PARTNER, MRS. ELSY PAUL.

2. ELSY PAUL,
   34/692 (A1), PARAMBATHARA, KARUVELIL ROAD,
   MAMANGALAM, PALARIVATTOM P.O., KOCHI-25.

3. MARYKUNJU JOSE, W/O. C.P.JOSEPH,
   CHIRACKAL MANAVALAN HOUSE, SUB JAIL ROAD,
   ALUVA-1.

4. THE STATE OF KERALA,
   REPRESENTED BY THE SECRETARY TO GOVERNMENT,
   HEALTH & FAMILY WELFARE DEPARTMENT, SECRETARIAT,
   THIRUVANANTHAPURAM.

5. THE DRUGS CONTROLLER OF KERALA,
NEAR EYE HOSPITAL, GENERAL HOSPITAL JUNCTION,
THIRUVANANTHAPURAM-695 001.

6. THE ASSISTANT DRUGS CONTROLLER,
ERNAKULAM, CIVIL STATION, KAKKANAD P.O.,
COCHIN-682 030.

7. THE ASSISTANT DRUGS CONTROLLER,
THRISSUR, CHEMBUKKAVU P.O., THRISSUR-680 020.

8. THE DRUGS INSPECTOR,
PALAKKAD, NEAR DANCE MARKET, MARKET ROAD,
PALAKKAD-678 014.

9. THE DISTRICT COLLECTOR, ERNAKULAM.

10. THE INDIAN DRUG MANUFACTURERS ASSOCIATION,
102 B, POONAM CHAMBERS,
DR. A.B.ROAD, WORLI, MUMBAI-400 018,
MAHARASHTRA, REPRESENTED BY ITS SECRETARY GENERAL.

11. ALL KERALA CHEMISTS & DRUGGISTS ASSOCIATION,
CHEMIST BHAVAN, CHAVARA CENTRE ROAD,
OPPOSITE SOUTH RAILWAY STATION, ERNAKULAM,
COCHIN-682 016, REPRESENTED BY ITS STATE
SECRETARY SRI. T.RAVINDRAN.

12. A.N.MOHAN,
POONAM MEDICALS, MANNATH LANE, THRISSUR-680 001.

13. T.RAVINDRAN,
D.T.ASSOCIATES, METTUPALAYAM STREET,
PALAKKAD-678 001.

14. K.I.SUNNY,
CHERUPUSHPAM MEDICALS, 44/1805, L.F.C.ROAD,
POTTAKKUZHIYIL JUNCTION, KALOOR,
COCHIN-682 017.

15. A.G.MURALI,
DHANUSH PHARMA, 41/954, "DEVI KRIPA",
PULLEPADY ROAD, ERNAKULAM, COCHIN-682 018.

16. ARISTO PHARMACEUTICALS PVT. LTD.,
COCHIN BRANCH, 44/1469 A1, ASHOKA ROAD,
KALOOR, KOCHI-682 017.

17. THE CANNANORE DRUG CENTRE,
CONSIGNEE AGENT, HETERO HEALTH CARE LTD.,
35/1584-B, SOUTH JANATHA ROAD, PALARIVATTOM,
KOCHI-25.

18. J.S.PHARMA,
HOUSE OF HI-TECH DRUGS, NEON LABORATORIES LTD.,
DOOR NO.43/1565-F, N.N.B.TOWERS, E.S.I. ROAD,
KOCHI-682 018.

19. RAPTAKOS BRETT & CO. LTD.,
IV/15 A, HILL PALACE CHITRAPUZHA ROAD,
CHITRAPUZHA, IRIMPANAM P.O., KOCHI-682 309.

20. WOCKHARDT LIMITED,
XL/709, CHITTOOR ROAD, IYYATTIL JUNCTION,
KOCHI-682 011.

21. LEO ENTERPRISES,
SUPER STOCKIST FOR SAIN MEDICAMENTS,
XXI/1287, PAZHAYA NADAKKAVU, THRISSUR-680 011.

22. VIRBAC ANIMAL HEALTH (INDIA) PVT. LTD.,
33/3397-A, ARAKKAKADAVU ROAD, NEAR THAIKKAVU
JUNCTION, VENNALA P.O., KOCHI-682 028.

23. RANBAXY LABORATORIES LTD.,
CFA- M/S. LEO DISTRIBUTORS, 31/1757 A,
MAY FIRST ROAD, SOUTH END, THAMMANAM ROAD,
KOCHI.

24. GUFIC BIOSCIENCES LTD.,
SOUTHERN MARKETING, 12/985-A, ERIX ENCLAVE,
PADAMUGHAL P.O., KAKKANAD.

25. DEVI DRUG LINES,
C.B. AGENTS FOR SERNUM INSTITUTE OF INDIA LTD.,
35/326 A-1, CHALLIRICKAL HOUSE, MAMANGALAM,
PALARIVATTOM, KOCHI-682 025.

26. NICHOLAS PIRAMAL INDIA LIMITED,
9/762-B/11B, CENTRAL WARE HOUSE, KINFRA EP IP,
KAKKAD, KOCHI-682 030.

27. NANDA MARKETING COMPANY,
41/1093, PULLEPPADY CROSS ROAD, ERNAKULAM,
KOCHI-682 018.

R1 TO R3 BY ADV.SRI.K.JAYAKUMAR.
R4 TO R9 BY SENIOR GOVERNMENT PLEADER SMT.MEERA.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 23/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.Dattu,C.J. & K.T.Sankaran,J.

W.A.No.971 of 2007

Dated, this the 23rd day of May, 2007

JUDGMENT

H.L.Dattu,C.J.

Some of the respondents in W.P.(C).No.33190 of 2006 are the appellants in this appeal. They are calling in question the correctness or otherwise of the interim order passed by the learned Single Judge dated 2nd February, 2007. By way of an interim measure, the learned Single Judge has tried to protect the wholesale distributors of the drugs. To give such a protection, the learned Single Judge has made certain observations in the course of the order.

2. In our view, at this stage it may not be proper for us to interfere with the interim measure/interim order passed by the learned Single Judge. Therefore, we do not intend to entertain this Writ Appeal. Accordingly, the appeal requires to be disposed of. However, liberty requires to be granted to the appellants to make an appropriate request before the learned Single Judge for hearing of the writ petition out of turn. If such a

request is made, learned Judge is requested to consider the same. All other contentions of both parties are left open. Ordered accordingly.

H.L.Dattu
Chief Justice

K.T.Sankaran
Judge

vku/-